

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN ALLAN WALTERS**, on January 19, 2001 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Allan Walters, Chairman (R)
Rep. Debby Barrett, Vice Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Dee Brown (R)
Rep. Donald L. Hedges (R)
Rep. Hal Jacobson (D)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Gay Ann Masolo (R)
Rep. Douglas Mood (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)
Rep. Rick Ripley (R)
Rep. Clarice Schrupf (R)

Members Excused: Rep. Frank Smith (D)

Members Absent: Rep. Norma Bixby (D)

Staff Present: Sheri Heffelfinger, Legislative Branch
Ruthie Padilla, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 239, 1/16/2001; HB 241,
1/16/2001; HB 293, 1/16/2001
Executive Action: HB 231; HB 287; HB 176

HEARING ON HB 239

Sponsor: REPRESENTATIVE BILL THOMAS, HD 93, HOBSON

Proponents: Jim Marks, Montana Association for the Blind
Dan Burke, Montana Association for the Blind
Bill Davis, Montana School for the Deaf and Blind
Jim Aldrich, Montana Association for the Blind
Betty Lou Berg, Montana Association for the Blind
Myrle Tompkins, Montana Association for the Blind
Allen Tompkins, Montana Association for the Blind

Opponents: None

Informational: Tony Herbert, Department of Administration,
Information Services Division

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 0}

REPRESENTATIVE BILL THOMAS, HD 93, HOBSON said the bill is a fairness issue. This piece of legislation is to lay the foundation for future technology. He submitted and discussed several pieces of information. He submitted written testimony for James Gashel **EXHIBIT(sth15a01)** a letter written by former Governor, Marc Racicot. **EXHIBIT(sth15a02)** and an Electronic Government Vision Statement. **EXHIBIT(sth15a03)**

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 5.2}

Jim Marks, Montana Association for the Blind said their organization has been around for 55+ years. They have an annual convention each year that is held in different cities in Montana and at the conventions they discuss things they would like to see changed to help blind people. This year, they decided they wanted a Montana law that would require purchasing technology that would be accessible to and usable by the blind and visually impaired. In order for blind people to hold jobs or to find out about bills that are important to them, they need to be able to access that information. They want to change what it means to be blind and make blindness a natural part of life and do the things all other

Montanans do.

Dan Burke, Montana Association for the Blind said they are a couple of things they are fighting. One is to ensure when buying technology it is user friendly for the visually impaired. The second thing is assurance that accessibility will be designed in the window systems. Submitted written testimony on behalf of James Gasher. **3() two copies-delete this exhibit.**

Bill Davis, Montana School for the Deaf and Blind stated he has been working with deaf and blind children for over thirty years and in that thirty years, two significant things have come along. One is OM training which trains blind students to travel and the second is with grants and donations, which they invested in technology for blind students. Close to 200 blind students live in the State of Montana and access to technology is one of the most important things for them. He strongly urged the committee to support the bill.

Informational:

{Tape : 1; Side : A; Approx. Time Counter : 21.8}

Tony Herbert, Department of Administration, Information Services Division stated he would be available for questions regarding the state system and how it operates. They have some concerns on the way the bill is written but feel it can be fixed. They want to make certain this legislation does not put more restrictions on Montana than are already required under federal ADA requirements.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 23.1}

REPRESENTATIVE BROWN asked how the state is going to follow the federal requirements when no one keeps current on federal regulations. **Tony Herbert** replied he did not have an answer to that but could check with the attorney and get that information from her.

REPRESENTATIVE HEDGES asked if the program for the impaired could be loaded, on a case by case basis, into a sufficient memory computer and asked how long it would take to load a program. **Dan Burke** replied yes it can be loaded on a case by case basis and the insulation takes less than one-half hour.

REPRESENTATIVE DELL asked **Dan Burke** to clarify the cost of technology and the decline in costs. **Dan Burke** replied the cost has decreased tremendously. In the days of DOS they had to purchase two pieces of hardware which was \$1,500.00 in addition to the current software cost of \$700.00. On an individual basis they spend about \$800.00 to make a computer compatible for a work station. If you buy a site license it would bring the cost down. The price of technology in is decreasing.

REPRESENTATIVE OLSON stated he can see a need for the bill, but one of the witnesses said the reason for this bill is information technology must be compatible with non-visual access software. It does not require the insulation of access software at every public access workstation. That is not the way the bill reads. **REPRESENTATIVE THOMAS** replied this issue is being addressed with an amendment, however he does not feel the bill states the program must be installed on every work station.

REPRESENTATIVE BROWN asked will this bill regulate future state purchases. **REPRESENTATIVE THOMAS** replied that is the way he interpreted the bill.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 5.6}

REPRESENTATIVE THOMAS said he has learned a lot from blind individuals. There are so many things we take for granted that are a challenge for the blind. The blind are asking the state for common sense and fairness. The state is very supportive of this and urge the committee for a do pass.

HEARING ON HB 241

Sponsor: **REPRESENTATIVE BILL THOMAS, HD 93, HOBSON**

Proponents: **Robert Throssell, Montana Association of Clerks & Recorders.**

Opponents: **None**

Informational: **Elaine Graveley, Secretary of State**

Opening Statement by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 8.8}

REPRESENTATIVE BILL THOMAS, HD 93, HOBSON stated this is a common sense bill. It clarifies what information is to be included in the ballot instruction booklet.

Proponents' Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 10.7}

Robert Throssell, Montana Association of Clerks & Recorders said in the past everyone was using paper ballots and marking them with an X. The instructions for ballot are printed and available to voters at the polls. The current instructions say mark with an X and on paper ballots that would be correct, however, with a punch card or optical scanner it can really mess things up. This bill is designed to give the county election administrator the authority to tailor the instructions to the system it uses.

Informational:

{Tape : 1; Side : B; Approx. Time Counter : 13.4}

Elaine Graveley, Secretary of State said she is available for any questions.

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 13.8}

REPRESENTATIVE asked how ballots are prepared for the visually impaired. **Elaine Graveley** stated what usually happens is two election judges go in the voting booth with them, read the options and mark their choice.

REPRESENTATIVE HEDGES asked if there are state-wide guidelines published, in each county, for the visually impaired or handicap. **Elaine Graveley** stated yes they are.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 5.6}

REPRESENTATIVE THOMAS said he feels good about this bill and felt

it needed to be addressed.

HEARING ON HB 293

Sponsor: REPRESENTATIVE CHRISTOPHER HARRIS, HD 30, BOZEMAN

Proponents: Bob Brown, Secretary of State
Vernan Bertelsen, Secretary of State
Mike Cooney, Citizen
Elaine Graveley, Secretary of State
Dorothea Bertelsen, Citizen

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 21.9}

REPRESENTATIVE CHRISTOPHER HARRIS, HD 30, BOZEMAN said this bill would revise current law dealing with tied elections.. He submitted and briefly discussed information on Recounts and Tie Votes **EXHIBIT**(sth15a04)and a book entitled Title 13 Election Laws.**EXHIBIT**(sth15a05)

Proponents' Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 28.9}

Bob Brown, Secretary of State stated the Florida Presidential election has generated national interest in the modernization and standardization of the electoral process. This piece of legislation will address the decision process for tied elections. The most important item in this bill is to provide one method of determining tied elections.

Vernan Bertelsen, Secretary of State said this bill simplifies the process and reduces costs. There have been times when the person making the tie breaking decision was not bi-partisan.

Mike Cooney, Citizen stated in his 10 years with the Secretary of State, it was his duty to oversee the decision in tied elections. He still firmly believes the election process is one of the more sacred rights they have as citizens and need to treat it as such. He feels to allow citizens to maintain the highest credibility in

the process they have to have a process that is consistent and easily understandable. This bill will bring consistency to the issue and make it much more understandable for those people who need to understand it.

Questions from Committee Members and Responses:

{Tape : 2; Side : A; Approx. Time Counter : 7.7}

REPRESENTATIVE MASOLO asked what is done on tie vote infinitives. **Mike Cooney** replied it believes it fails on a tie vote but does not know if that is an accurate answer.

REPRESENTATIVE LENHART asked if there is a tie vote in any election or any office, does it include county school district election too. **Mike Cooney** said he believes this bill only addresses tie votes for offices that would occur on a state level.

REPRESENTATIVE RASER asked if the Secretary of State could adopt rules that would break tie votes to the local jurisdiction. **REPRESENTATIVE HARRIS** replied the way the bill is currently worded, all tie breaking exercises would be done by the Secretary of State.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 17.6}

REPRESENTATIVE HARRIS said in the case of the looser, the looser would feel better losing to a coin toss rather than as a result of politics. He feels the Secretary of State is the one who should be making the tie breaking decision.

EXECUTIVE ACTION ON HB 231

{Tape : 2; Side : A; Approx. Time Counter : 22.1}

Motion: REP. BARRETT moved that HB 231 DO PASS.

Discussion:

Sheri Heffelfinger submitted and discussed research requested by the committee on Local Fire Relief Associations and the effect of HB 231. **EXHIBIT**(sth15a06)

REPRESENTATIVE LEHMAN asked if the proposal should have some clarification that it only applies to volunteer firefighters of relief association, not volunteer firefighters. **Sheri Heffelfinger** replied this specific piece of legislation only addresses the fire relief association not anyone else.

Motion: REP. BROWN moved that HB 231 BE AMENDED.

Discussion:

REPRESENTATIVE BROWN submitted and discussed her amendment to the bill. **EXHIBIT** (sth15a07)

REPRESENTATIVE LEHMAN said the lines this amendment is striking the word "may" be increased, which leaves it to the discretion. He then clarified that if they do not qualify due to the lack of funding they cannot give the 2.5% increase.

REPRESENTATIVE MOOD asked how this particular pension fund works. **Sheri Heffelfinger** replied it is a defined benefit plan and pooled trust fund. There is not an individual account for each firefighter. This is not a state-wide plan so each city or town that has pension relief association has its' own fund and board of trustees.

Motion/Vote: REP. BROWN moved that HB 231 BE AMENDED. Motion carried 11-7 with Bixby, Hedges, Jacobson, Jent, Lee, Lenhart, and Walters voting no.

Motion/Vote: REP. SMITH moved that HB 231 DO PASS AS AMENDED. Motion carried unanimously. 18-0

EXECUTIVE ACTION ON HB 287

{Tape : 2; Side : B; Approx. Time Counter : 15.7}

Motion: REP. DELL moved that HB 287 DO PASS.

Motion: REP. DELL moved that HB 287 BE CONCEPTUALLY AMENDED.

Discussion:

REPRESENTATIVE DELL stated on line 20 of the bill, he would like to remove "shall" and replace it with "may". He additionally wants to amend line 5 by changing "requiring" to "allowing"

REPRESENTATIVE JENT said he had a technical concern about the amendment as to the concept of the bill. He feels this may not be the concept the sponsor wishes to present. Out of respect for the sponsor, such technical amendments should be approved by the sponsor. Additionally, he has a legal consideration about this particular change. He has a problem with putting discretionary challenges into statute when a judge can do that anyway. The way the sponsor has written the bill it would be mandatory not discretionary.

CHAIRMAN WALTERS said he would like to continue and finish the amendment and the bill. He does not want to postpone action.

REPRESENTATIVE MASOLO stated she is disagreeing with the bill.

REPRESENTATIVE DELL commented he feels it is important to recognize that this bill is about compensation and is not about desecration. He did not want the committee to get the two issues confused with the bill.

Motion/Vote: REP. DELL moved that **HB 287 BE CONCEPTUALLY AMENDED.**
Motion carried unanimously. 18-0

Motion: REP. OLSON moved that **HB 287 DO PASS AS AMENDED.**

Discussion:

REPRESENTATIVE HEDGES said he is going to speak against passing this piece of legislation on the floor.

Motion: REP. RASER moved that **HB 287 BE CONCEPTUALLY AMENDED.**

Discussion:

REPRESENTATIVE RASER stated she feel most people are uncomfortable with the idea of compensation for childcare but she does like the idea of bringing it to the courts attention that parents with young children can be very affected by jury duty. She would like strike any lines or section referring to childcare compensation.

REPRESENTATIVE LEE stated she is in support of the amendment. She

feels it is an important step that needs to be taken. Most people do not realize , especially in the court system that taking care of children is as important as a business trip or other reason. Hardship is not always considered because an individual has to take care of their children. She feels this bill is needed to send a clear signal that this needs to be considered.

REPRESENTATIVE DELL said this bill is reminding the judge that this is an option. It is just stating statutorily in a friendly way that they should give consideration for childcare.

REPRESENTATIVE MOOD stated he realizes this is a problem for some people, young mothers in particular and those who care for elderly parents. Many people in society who special situations that need to be addressed. He does not see a need of feels it would be right to give special treatment to single mothers. There are a lot of people who need special consideration, for their situation, that should be considered by a judge. If the judge does not have the ability to do that, they should not be re-elected.

REPRESENTATIVE LEE commented it is not just for single mothers, It is for parents who have children.

REPRESENTATIVE BROWN said she does not support the bill and feels it is not equal. As a business owner, running her business would need to be considered.

REPRESENTATIVE RASER said there are judges who does not consider this to be an equal hardship and do give more consideration to someone who is a single proprietor or has an elderly dependant. The judge will consider that, but will not consider the parent who has childcare difficultly. Her intention is not to give more latitude to judges, but to call their attention to the childcare situation.

CHAIRMAN WALTERS said if the bill passes, he can see business owners and other groups wanting to be added as a special group needing consideration.

REPRESENTATIVE RASER said considering their jobs are to be REPRESENTATIVE of their constituents, she does not believe any committee members has had a constituent complain about be denied a request to be excused from jury duty. This is something that if it comes from constituent is a problem. As representatives, it our job to create law to fit the interest of the people they represent.

Motion/Vote: REP. RASER moved that HB 287 BE CONCEPTUALLY AMENDED. Motion carried 17-1 with Walters voting no.

Discussion:

REPRESENTATIVE SMITH stated he agrees with the bill the way it is but where do you draw the line.

REPRESENTATIVE HEDGES said if you added parents with small children to the list of exceptions, it would cut out everybody under the age 40.

REPRESENTATIVE MASOLO said she is going to vote against the bill too. She comes from a small county and they already have a problem getting jury members. This bill would limit that even more and feels it should be left to the desecration of the judge and lawyers.

Motion/Vote: REP. LEE moved that HB 287 DO PASS AS AMENDED. Motion failed 5-13 with Bixby, Dell, Jacobson, Lee, and Raser voting aye.

Motion/Vote: REP. MOOD moved that HB 287 BE TABLED. Motion carried 13-5 with Bixby, Dell, Jacobson, Lee, and Raser voting no.

EXECUTIVE ACTION ON HB 176

{Tape : 3; Side : A; Approx. Time Counter : 20.9}

Motion: REP. HEDGES moved that HB 176 DO PASS.

Discussion:

Sheri Heffelfinger submitted and discussed a letter from Mike O'Conner with responses to some of the committees concerns. **EXHIBIT**(sth15a08)

REPRESENTATIVE BROWN said the only part of the bill she has a concern with is line 15 on page one. REPRESENTATIVE JENT explained line 15.

Motion: REP. JENT moved that HB 176 BE AMENDED.

Discussion:

REPRESENTATIVE JENT discussed his amendment. **EXHIBIT(sth15a09)** Due to the back log in Eastern Montana he wanted to insert an immediate effective date.

Sheri Heffelfinger clarified and discussed with the committee the purpose of the amendment and the effect it will have on the bill.

REPRESENTATIVE LEHMAN stated he does not feel comfortable taking action on the amendment or bill when the primary sponsor does not understand it at this point and time.

Motion/Vote: REP. HEDGES moved to **WITHDRAW** his motion that **HB 176 DO PASS. Motion carried unanimously. 18-0**

ADJOURNMENT

Adjournment: 10:55 A.M.

REP. ALLAN WALTERS, Chairman

RUTHIE PADILLA, Secretary

AW/RP

EXHIBIT (sth15aad)